

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

UNITED STATES OF AMERICA

V.

ROBERTO HERNANDEZ

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5:15-CR-23(1)

**REPORT AND RECOMMENDATION ON
THE DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate Judge.

Defendant Roberto Hernandez appeared with counsel on June 27, 2016 for a Change of Plea Hearing. Due to concerns at that time about Defendant's mental state, counsel for Defendant filed a motion requesting Defendant be examined for competency pursuant to Title 18, United States Code, Section 4241. The Government did not oppose the motion.

On July 5, 2016, the Court granted Defendant's unopposed motion and ordered that Defendant be committed to the custody of the Attorney General for a period of time not to exceed thirty days and to be examined by a qualified psychiatrist or psychologist under the provisions of 18 U.S.C. § 4241, to determine whether Defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his own defense. In accordance with the Court's Order, a mental health evaluation of Defendant was completed.

A competency hearing was scheduled November 16, 2016. At the hearing, counsel for

Defendant and the Government stated they had no objection to the findings contained in the psychological evaluation. According to the Psychological Evaluation, the licensed psychologists opined Defendant is competent to proceed with his legal case.

Following the hearing, the Court did not find by a preponderance of the evidence that Defendant is suffering from a mental defect to the extent that he is unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense. The Court agreed with the examiner's finding that Defendant is competent to proceed to trial and make other decisions regarding his legal case.

RECOMMENDATION

The Court should find Defendant competent to proceed with his legal case at this time, including competency to stand trial, to plead guilty, and to be sentenced. Defendant is able to understand the nature and the consequences of the proceedings against him and to assist properly in his defense.

OBJECTIONS

Within fourteen (14) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the undersigned.

All parties were informed of this right and have waived their right to file objections.

SIGNED this 4th day of May, 2017.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE